IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5912 of 2000

with

SPECIAL CIVIL APPLICATION No 5913 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VADODARA JILLA MAZDOOR SANGH

Versus

INDIAN OIL CORPORATION LTD.

Appearance:

1. Special Civil Application No. 5912 of 2000

MR NK MAJMUDAR for Petitioners

MR MANISH R BHATT for Respondent No. 1

RULE SERVED BY DS for Respondent No. 2

MR BHARAT T RAO for Respondent No. 3, 4

2. Special Civil ApplicationNo 5913 of 2000

MR NK MAJMUDAR for Petitioners

MR MANISH R BHATT for Respondent No. 1

RULE SERVED BY DS for Respondent No. 2

MR BHARAT T RAO for Respondent No. 3, 4

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 19/06/2001

COMMON ORAL JUDGEMENT

Both these petitions are filed by Vadodara Jilla Mazdoor Sangh, through its President and the workers named in the petitions themselves. The case of the petitioners is that the petitioners named in the petitions are working as labourers/ sweepers on contract. The contractor might change, but the petitioners continued to work for the last so many years. The prayers are, therefore, made to the effect that respondent no.1 be directed to absorb the petitioners as permanent sweeper/ labourer with a further direction to give all the benefits which are available to a permanent sweeper from the respective dates of their appointment.

2. Mr.M.R. Bhatt, learned advocate appearing for the respondent submitted that the petitioners have approached this court without exhausting the alternative remedy. In view of that, as is held by this Court in Special Civil Application No.7590 of 1999, the petitioners are required to be relegated to the alternative remedy. Mr.Bhatt also pointed out that the dispute regarding other similarly situated persons is already pending before the concerned Tribunal and one charter of demands in the same subject matter raised by the petitioners of the said Special Civil Application No.7590 of 1999, is pending before the Conciliation Officer. In view of that it is deemed fit that the present petitioners be also directed to follow the same course of action and the interim relief granted in both these matters may continue for the period during which the petitioners may be directed to approach the alternative forum.

3. Mr.Bhatt, learned advocate further submitted that the matter regarding the contract labour is already heard by the Apex Court and the judgement is awaited. He requested that it may be made clear that in case the proceedings are filed before the alternative forum, the same shall be subject to decision of the Supreme court and it should be open for the institution to plead that the reference itself is not maintainable. No such clarification is required to be made by this Court. The decision of the Apex Court will take its own course and pleas available to either parties under law can always be taken in accordance with law.

4. The petitioner may approach the available forum under Labour laws at the earliest, but not later than 14th August 2001. With the aforesaid observations, both these petitions are disposed of. Rule is discharged with no order as to costs. Ad interim relief granted earlier to continue till 31.12.2001.

(Ravi R. Tripathi, J.)

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